

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:11-CV-167-D

GREAT AMERICAN INSURANCE)
COMPANY,)
)
Plaintiff,)
)
v.)
)
T.R. DRISCOLL, INC., ET AL.,)
)
Defendants.)

ORDER

On August 8, 2011, Great American Insurance Company (“plaintiff” or “Great American”) filed this action against T.R. Driscoll, Inc. (“T.R. Driscoll, Inc.”), James T. Driscoll, Jr., Judy L. Driscoll, Robert L. Driscoll, Paula P. Driscoll, William S. Driscoll, and Sharon S. Driscoll (“individual defendants”) (collectively, “defendants”) [D.E. 1]. On August 16, 2012, plaintiff moved for summary judgment against Robert L. Driscoll and Paula P. Driscoll [D.E. 41]. On September 26, 2012, Robert L. Driscoll, Paula P. Driscoll, William S. Driscoll, and Sharon S. Driscoll moved to stay the action against them in light of their bankruptcy filings [D.E. 44]. As explained, the court grants the motion to stay the action and denies without prejudice plaintiff’s motion for summary judgment.

On July 12, 2012, William S. Driscoll and Sharon S. Driscoll initiated proceedings in the United States Bankruptcy Court for the Eastern District of North Carolina pursuant to Chapter 11 of Title 11 of the United States Code. See Mot. Stay [D.E. 44] 1; In re Driscoll, No. 12-05061-8-JRL, [D.E. 1] (Bankr. E.D.N.C. July 12, 2012). On September 25, 2012, Robert L. Driscoll and Paula P. Driscoll initiated proceedings in the United States Bankruptcy Court for the Eastern District of North Carolina pursuant to Chapter 11 of Title 11 of the United States Code. See Mot. Stay 1;

In re Driscoll, No. 12-06839-8-JRL, [D.E. 1] (Bankr. E.D.N.C. Sept. 25, 2012). Accordingly, the court stays the action against Robert L. Driscoll, Paula P. Driscoll, William S. Driscoll, and Sharon S. Driscoll. See 11 U.S.C. § 362(a)(1). Because the court stays the action against Robert L. Driscoll and Paula P. Driscoll, the court denies without prejudice plaintiff's motion for summary judgment against them. See, e.g., Deuty v. Hewlett-Packard Corp., Civil Action No. 10-cv-00562-WYD-KMT, 2012 WL 263386, at *1 (D. Colo. Jan. 27, 2012) (unpublished); Mister Softee, Inc. v. Menoscal, No. 08-60100-CIV, 2009 WL 1286338, at *1 (S.D. Fla. May 6, 2009) (unpublished).

In sum, the court GRANTS the motion to stay the action against Robert L. Driscoll, Paula P. Driscoll, William S. Driscoll, and Sharon S. Driscoll [D.E. 44], and DENIES WITHOUT PREJUDICE plaintiff's motion for summary judgement against Robert L. Driscoll and Paula P. Driscoll [D.E. 41]. Robert L. Driscoll, Paula P. Driscoll, William S. Driscoll, and Sharon S. Driscoll shall file an update with the court every sixty days concerning their bankruptcy case.

SO ORDERED. This 25 day of October 2012.


JAMES C. DEVER III
Chief United States District Judge